

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

**ARWOOD INDEMNITY CO.
SUCCESSOR TO TUITIONGUARD
Plaintiff**

Vs.

Case No. 2:11-cv-101-WC

RICHARD A. STEHL
Defendant

MOTION TO REFER TO BANKRUPTCY COURT

Comes now the Defendant, Richard A. Stehl, who moves to refer this matter to the United States Bankruptcy Court for the Middle District of Alabama, and as ground therefore states unto the Court as follows:

1. The Defendant, Richard A. Stehl, filed his Chapter 7 bankruptcy petition in the Bankruptcy Court for the Middle District of Alabama on October 15, 2005, case no. 05-33989-WRS. He received an order of discharge in the bankruptcy case on February 7, 2006. The case was a no asset case.

2. This matter addresses a complaint filed by Arrowood Indemnity Co., Successor to TuitionGuard v. Richard A. Stehl, filed in the Circuit Court of Montgomery County, Alabama, case no. CV-10-01107.

3. The face of the complaint alleges that the debt sued upon was “entered into by the Defendant on 11/15/01”.

4. The debt was discharged in the bankruptcy proceeding. 11 USC § 727(b) The Defendant is enjoined from pursuing this debt. 11 USC § 524(a)

5. Further, The Defendant, reopened his bankruptcy case in 2005 and filed an Adversary Proceeding, No. 06-3100, Complaint to Determine Dischargeability of Debt, naming many

Defendants including “TuitionGardtm Ltd.”. On May 9, 2007, Judge William Sawyer entered a judgment, to wit: “For the reasons set forth in this Court’s Memorandum Decision of this date, judgment is entered in favor of the Plaintiff. It is determined that the subject student loan indebtedness is not excepted from the Debtor’s discharge pursuant to 11 U.S.C. § 523(a)(8). In addition, Defendants Landmark American Insurance Company and TuitionGard, Ltd., are dismissed without prejudice.” As noted in the Court’s Memorandum Decision of even date, service could not be obtained on Defendants Landmark American Insurance Company and TuitionGard, Ltd. The adversary proceeding sent to TuitionGard, Ltd. was not deliverable at the address for TuitionGard, Ltd.

6. This case is “related” to the Chapter 7 bankruptcy case of Richard A. Stehl, The District Court has jurisdiction pursuant to 28 USC § 1334. This District Court has by order referred to the Bankruptcy Court for the Middle District of Alabama all cases under title 11 and all proceedings arising under title 11 or arising in or related to a case under title 11. See 28 USC § 157(a) and the referring order (copy of referring order dated 4/25/1985 attached). Cases that are “related” may be “core” cases or non-core cases. If the case is a “core” case, then the Bankruptcy Court may hear and decide the case. If the case is non-core case, the Bankruptcy Court shall hear the case, and submit proposed findings of fact and conclusions of law to the District Court. 28 USC § 157(c)(1) (In a non-core case, the Bankruptcy Court can hear and decide the case if the parties consent. 28 USC § 157(c)(2)).

7. The matter before the Court is a “core” proceeding relating to the dischargeability of a debt. 28 U.S.C. § 157(b)(2)(I).

WHEREFORE, the Defendant, Richard A. Stehl, respectfully moves for an order of this Court referring the matter to the Bankruptcy Court for the Middle District of Alabama.

Done this the 4th day of April, 2011.

/s/ Richard A. Lawrence
Richard A. Lawrence
Attorney for Defendant Richard A. Stehl

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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing upon the following parties listed below by placing a copy of the same in the United States Mail, first class postage prepaid and properly addressed, or by electronic mail on this the 4th day of April, 2011:

Leonard M. Schwartz
1609 Richard Arrington Jr. Blvd. South
Birmingham, AL 35205

/s/ Richard A. Lawrence
Richard A. Lawrence
Attorney for the Plaintiff